

PART 3

ALCOHOLIC BEVERAGES

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§ 3-101 PURPOSES OF CHAPTER.

This chapter is enacted as an exercise of the police power of the city to preserve the public peace, safety, health and good order thereof, and to aid the enforcement of the policy of the state as established by the Oklahoma Alcoholic Beverage Control Act, §§ 501 et seq. of Title 37 of the Oklahoma Statutes, and to establish annual occupation taxes upon all persons engaged in the manufacture, sale or distribution of alcoholic beverages.

State Law Reference: State alcoholic beverage regulations, generally, 37 O.S., §§ 502 et seq.

§ 3-102 TERMS AND PHRASES.

For the purpose of this chapter, all of the terms and phrases used in this chapter shall be given the same use and meaning as defined by the Oklahoma Alcoholic Beverage Control Act. “Minor” shall mean a person who, in accordance with state law, has not yet attained the age at which consumption of alcoholic beverages is permitted. “State licensee” means any person who holds a license issued under authority of the Oklahoma Alcoholic Beverage Control Act. (Ord. No. 137, 8/2/77 as amended)

§ 3-103. LICENSES AND FEES.

It is hereby declared to be the purpose and intention of the city, by this article, to adopt licenses and fees as provided by the laws of the state. (Ord. No. 279, 6/18/85; Ord. No. 296, 10/25/85; Ord. No. 644, 1/22/08)

State Law Reference: City license fees, not to levy greater than state licenses, 37 O.S. § 518.

§ 3-104 PAYMENT REQUIRED; PENALTY.

- A. Any state licensee originally entering upon any occupation herein listed shall pay the tax therefore at the office of the city manager or his designee on or before the date upon which he enters upon such occupation. The licensee shall provide a copy of his current state license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April.
- B. The license fee subject to this chapter shall be prorated on a monthly basis for the year in which an occupation begins operations.
- C. Upon payment of the license fee, the city manager or his designee shall issue a receipt to the state licensee which licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.
- D. Any person who engages in any of the occupations taxed by this chapter without paying the license fee imposed therefore in advance of such operation, is guilty of an offense against the city and, upon conviction thereof, shall be punished as provided in § 1-108 of this code. Each day of such violation shall constitute a separate offense. (Ord. No. 279, 6/18/85; Ord. No. 644, 1/22/08)

§ 3-105 ANNUAL REPORT.

The city clerk shall make an annual report to the Alcoholic Beverage Laws Enforcement (ABLE) Commission, covering the fiscal year, showing the number and class of licensee subject to the occupation tax and the amount of money collected from the tax. (Ord. No. 279, 6/18/85)

§ 3-106 APPLICATION FOR CERTIFICATE; INVESTIGATIONS.

- A. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city required by Title 37 of the Oklahoma Statutes shall apply at the office of the clerk by:
 - 1. Filing a written application on forms prescribed by that office; and
 - 2. Paying a verification and certification fee in the amount as set by the council at the time of filing.
- B. Upon receipt of an application for a certificate of compliance the city manager or his designee shall cause an investigation to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building and other safety codes applicable to it.
- C. The city manager shall act on all such applications within twenty (20) days of receipt thereof. (Ord. No. 279, 6/18/85)

State Law Reference: Certificates issued by city prior to state licensing, 37 O.S. § 523.

§ 3-107 ISSUANCE OF CERTIFICATE OF ZONING AND CERTIFICATE OF COMPLIANCE.

- A. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE Commission.
- B. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable fire, safety, and health codes, a certificate of compliance shall be issued to the ABLE Commission.
- C. The above certificates of compliance shall be signed by the mayor or by the city manager or his designee.
- D. A conditional certificate may be granted if construction, modification or alteration of the premises proposed for licensed operations is not completed. The conditional certificate shall indicate that the proposed premises will comply with city zoning, fire, safety and health codes. A certificate in accordance with subsections A and B of this section shall be issued within ten (10) days after all final inspections are complete. Thereafter, if a license fails to maintain compliance with municipal zoning ordinances and codes, the city clerk shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance (Ord. No. 279, 6/18/85; Ord. No. 644, 1/22/08)

§ 3-108 CONDITION OF SALE.

- A. No person shall sell or deliver alcoholic beverages out of any retail alcoholic beverage store other than:
 - 1. In retail containers;
 - 2. At ordinary room temperatures;
 - 3. In the original package; and
 - 4. For consumption off the premises.
- B. No person owning, employed in, or in any manner assisting in the maintenance and operation of such a store shall suffer, or permit any alcoholic beverage to be consumed, or any retail container of such beverage to be opened on the premises of such a store. (Ord. No. 137, 8/2/77, as amended)

§ 3-109 CONSUMPTION PROHIBITED, WHERE.

No person shall drink or consume in any manner any alcoholic beverage on the premises of a retail alcoholic beverage package store, nor in any other public place. Neither shall a person open

or break the seal of any original package or retail container containing alcoholic beverages on the premises of any such retail beverage store. (Ord. No. 137, 8/2/77, as amended)

§ 3-110 COMPLIANCE REQUIRED.

No person shall sell at retail or otherwise, and no person shall deliver, in consequence of or in completion of such a sale, any alcoholic beverages at any place in the city except at a retail alcoholic beverage store in strict conformity with this chapter and the laws of the state. (Ord. No. 137, 8/2/77, as amended)

§ 3-111 COMPLIANCE WITH ZONING REGULATIONS REQUIRED.

No retail alcoholic beverage package store, no bottle club, and no wholesale alcoholic beverage store, warehouse, brewery, distillery, winery or any other place, however described, and for the manufacture or production or bottling of alcoholic beverages of any kind, shall be located, maintained, or operated by any person, at any place within the boundaries of the city except at a location at which such an establishment is permitted or authorized by the zoning ordinances of the city. No person shall own, operate, maintain or be interested in any retail alcoholic beverage store which is located at a place within the city limits of the city which is in violation of or forbidden as a location by the city or under the laws of the state. (Ord. No. 137, 8/2/77, as amended)

State Law Reference: Similar provisions, 37 O.S. § 534.

§ 3-112 PROHIBITED LOCATION.

The location of a retail package store, mixed beverage establishment or bottle club is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or public school. If any such church, or school, shall be established within three hundred (300) feet of any licensed premises after such premises have been licenses, this shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. The distance indicated in this section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store, mixed beverage establishment or bottle club along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. (Ord. No. 137, 8/2/77, as amended)

§ 3-113 PROHIBITED SALES.

- A. No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the city limits of the city to any person who is under twenty-one (21) years of age. Neither shall any person under twenty-one years of age misrepresent his age verbally or in writing, or present false documentation of age or otherwise for the purpose of inducing any other person to sell him alcoholic beverages.
- B. No person shall sell, deliver or knowingly furnish alcoholic beverage or beverages within

the city to an intoxicated person or to any person who has been adjudged insane or mentally deficient. (Ord. No. 137, 8/2/77, as amended; Ord. No. 644, 1/22/08)

§ 3-114 TRANSPORTING BEVERAGES.

It is unlawful to transport any alcoholic beverage, unless the same is:

- A. In an unopened original container with seal unbroken, and the original cap or cork not removed from the container; and
- B. In the trunk or other closed compartment or container out of public view and out of reach of and not accessible to the driver or any occupant of a vehicle. (Ord. No. 137, 8/2/77, as amended)

§ 3-115 PROHIBITED EMPLOYMENT.

No person under eighteen (18) years of age shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within the city. No person shall employ or assist or aid in causing the employment of any person under eighteen (18) years of age at any place within the city in the selling, manufacture, distribution or other handling of alcoholic beverages. No person under twenty-one (21) years of age shall be permitted to remain within or to loiter about the premises of a retail alcoholic beverage store. Violation of this provision shall subject the owner or proprietor, as well as the underage person, to prosecution. (Ord. No. 137, 8/2/77, as amended; Ord. No. 644, 1/22/08)

§ 3-116 DATES, HOURS ON WHICH SALE PROHIBITED.

- A. No person shall open for business or keep open for business or sell or deliver alcoholic beverages as defined herein to any person at a retail alcoholic beverage store in the city on any Sunday, New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day or Christmas Day, or while polls are open on the day of any general, primary, run-off primary or special election, whether national, state, county, or city, or any other day except between the hours of 10:00 A.M. and 9:00 P.M.
- B. No wholesale dealer in alcoholic beverages, and no officer, agent or employee of such a dealer, shall sell or deliver to any retail alcoholic beverage store within the city any amount of spirits or wines on Saturday of any week, on Sunday of any week, on New Year's Day, on Memorial Day, on the Fourth of July, on Labor Day, on Veteran's Day, on Thanksgiving Day, on Christmas Day, or, while the polls are open on the day of any general, primary, run-off primary, or special election, whether national, state, county or city. (Ord. No. 137, 8/2/77 as amended)

§ 3-117 DRINKING AND INTOXICATION IN PUBLIC PLACE PROHIBITED.

No persons, within this city shall drink intoxicating liquor in any public place, nor shall any person be intoxicated in a public place within the city. (Ord. No. 137, 8/2/77, as amended)

§ 3-118 NOT TO PERMIT INTOXICATED PERSON IN CAFÉ, CLUB.

No person operating a café, restaurant, club, or any place of recreation within this city, and no employee engaged in connection with the operation of such a café, restaurant, club or place of recreation shall permit any person to be drunk or intoxicated in the place of business. (Ord. No. 137, 8/2/77, as amended)

§ 3-119 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the city, and, upon conviction of such an offense the violator shall be punished as provided in § 1-108 of this code. (Ord. No. 137, 8/2/77, as amended)

CHAPTER 2

NON-INTOXICATING BEVERAGES

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§ 3-210	Prohibited location.
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§ 3-201 DEFINITIONS.

In the administration of this chapter, the following words and phrases are given the meanings respectively indicated:

- A. “Low-point beer” means and includes beverages containing more than one-half of one percent (.5%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products;
- B. “Manufacturer” means and includes any person who prepares for human consumption by the use of raw materials or other ingredients any low-point beer, as defined herein, upon which a license fee and a tax are imposed by any law of this state;
- C. “Meals” mean foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered “meals”;
- D. “Motion picture theater” means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this section, are served, if only persons twenty-one (21) years of age or older are admitted;
- E. “Non-intoxicating beverage” means all beverages which includes low-point beer containing more than one-half of one percent (.5%) alcohol by volume and less than three and two-tenths (3.2%) alcohol by weight;
- F. “Person” means and includes an individual, a trust or estate, a partnership, an association or a corporation;

- G. “Place of business” means each separate location or service unit in which or from which non-intoxicating alcoholic beverages are sold, delivered or otherwise furnished;
- H. “Retail dealer” means and includes any person who sells any low-point beer, as defined herein, at retail for consumption or use, and such definitions include state and county fair associations, and special licenses may be issued for the sale of low-point beer, as herein defined, by such associations, and to other persons for the sale of such low-point beer at rodeos, picnics, or other organized temporary assemblages of people. The term “retail dealer” also includes railways for the sale of such beverages, and licenses may be issued for each dining car or railway train, which railways and dining cars shall pay the same license fees as regular retail dealers;
- I. “Sale” or “sales”, for the purpose of the collection of the taxes imposed by any law of the state upon low-point beer, as defined herein, is hereby defined to mean and include all sales by all wholesalers within this state, for money or any other valuable consideration, to retail dealers for resale; and, also, the term “sale” or “sales” taxable under Title 37 O.S. § 163.1 et seq. means and includes all sales from manufacturers or wholesalers from outside this state, to retail dealers for resale to consumers or otherwise. The term “sale” or “sales” shall also include sales from manufacturers without the state to wholesalers located within the state; and
- J. “Wholesaler” means and includes any person who sells any low-point beer, as defined herein, to a licenses retail dealer, as hereinafter defined, for resale. (Ord. No. 137, 8/2/77, as amended; Ord. No. 644, 1/22/08)

State Law Reference: See 37 O.S. §§ 163.1 et seq. for definitions and regulations applicable to non-intoxicating beverages.

§ 3-202 HOURS OF SALE.

- A. It is unlawful for any place licensed to sell, dispense, or serve low-point beer for consumption on the premises between the hours of 2:00 A.M. and 7:00 A.M. on any day or allow such beverages to be consumed on the premises between the hours of 2:00 A.M. and 7:00 A.M. excepting Saturday nights when such beverages may not be sold, dispensed, served, or consumed on the premises between the hours of 2:00 A.M. and 12:00 Noon on Sundays; and between the hours of 2:00 A.M. on Sunday and 7:00 A.M. of the following Monday.
- B. It shall be unlawful for any place that is a commercial premises to allow low-point beer to be consumed on such commercial premises between the hours of 2:00 A.M. and 7:00 A.M. on any day. As used in this subsection, “commercial premises” means a location or establishment at which this type of business or activity is carried on for profit. (Ord. No. 137, 8/2/77, as amended; Ord. No. 644, 1/22/08)

State Law Reference: Similar provisions, 37 O.S. § 213

§ 3-203 LICENSE FEES.

There is hereby levied on each retail dealer in non-intoxicating beverages within the city selling such beverages for consumption on or off the premises of the dealer's place of business, a license fee of Twenty Dollars (\$20.00) per annum, and on each retail dealer selling such beverages exclusively in original packages (of not less than case lots) and not for consumption of his premises, a license fee of Ten Dollars (\$10.00) per annum. A separate license fee shall be paid for each place of business, as herein defined, operated and conducted by the retail dealer. (Ord. No. 137, 8/2/77, as amended)

State Law Reference: State license fee, city not to levy greater fee, 37 O.S. § 163.7

§ 3-204 LICENSE REQUIRED.

- A. It is unlawful and an offense for any person to sell, distribute or dispense within the city any non-intoxicating beverages to the public for consumption or use without first having obtained a license therefore from the city clerk. Every person desiring to engage in business as a retail dealer in non-intoxicating beverages or to continue in the business within the city shall make application to the city clerk on forms to be provided, setting forth the locations of the business, together with the applicant's address, and if a corporation, the name of the president and managing officer. The application shall show the date and permit number of the permits issued by the district court judge and the Oklahoma Tax Commission as required by law.
- B. Upon a showing that the applicant has obtained his permits from the district court judge and the Oklahoma Tax Commission and after payment of the license fee to the city, such license shall be issued forthwith. All licenses shall expire annually as set by the city. Licenses issued hereunder shall not be assignable or transferable. The city license shall be displayed in the licensee's place of business. The license may be canceled for any violation of the laws of the state for which the licensee's county or state license may be canceled, and in a similar manner. (Ord. No. 137, 8/2/77 as amended.)

§ 3-205 NOT TO SELL TO MINORS.

It is unlawful for any person to sell, offer, give away, procure for, barter or otherwise dispense to any minor any non-intoxicating beverage, or for any minor to purchase, receive, or procure any non-intoxicating beverage. (Ord. No. 137, 8/2/77, as amended.)

§ 3-206 POSSESSION BY MINORS.

- A. "Possession" under the terms of this chapter shall consist of actual physical possession and shall further include any non-intoxicating alcoholic beverage or beer accessible or within the range of reach of hands of any such person.
- B. It is unlawful for a minor to be in possession of any non-intoxicating beverage while such person is upon any public street, avenue, alley, road, highway or public building or place. (Ord. No. 137, 8/2/77, as amended)

§ 3-207 PERSONS UNDER EIGHTEEN (18) NOT TO BE EMPLOYED.

- A. It is unlawful for any owner, manager, operator or employee of a place where non-intoxicating beverages are sold or dispensed for consumption on the premises to employ a person under eighteen (18) years of age to work in such place; or for any person under eighteen (18) years of age to work in such place. This subsection shall not apply to any licensed premises where sales of non-intoxicating beverage do not exceed twenty-five percent (25%) of the gross sales of the licensee.
- B. It is unlawful for any minor to be employed or permitted to work in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of non-intoxicating beverages. This subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of non-intoxicating beverages, in which sales or serving of non-intoxicating beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell low-point beer for consumption on the premises from the provisions of this subsection.
- C. A parent as regards the employment of his or own child or children excepted from the provisions of this subsections A and B, provided that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages. (Ord. No. 137, 8/2/77, as amended; Ord. No. 644, 1/22/08)

State Law Reference: Similar provisions, 37 O. S. § 243.

§ 3-208 NOT TO PERMIT MINORS TO FREQUENT BARS, EXCEPTIONS.

- A. The owner of any bar, beer hall, tavern, or other place wherein any non-intoxicating beverage is dispensed for consumption on the premises shall not permit any minor to be admitted to, enter or to remain in a separate enclosed bar area of the licensed premises which has as its main purpose the selling or serving of non-intoxicating beverages for consumption on the premises unless the person's legal guardian or parent is present, nor shall any minor enter or remain about such separate or enclosed bar area.
- B. This section shall not prohibit minors from being admitted to, entering or remaining in an area which has as its main purpose some objective other than the sale or serving of non-intoxicating beverages, in which sales or serving of non-intoxicating beverages are incidental to the main purpose, if the minors are not sold or served or do not consume non-intoxicating beverages. (Ord. No. 137, 8/2/77, as amended)

State Law Reference: Similar provisions, 37 O.S. §§ 241 and 246.

§ 3-209 UNLAWFUL TRANSPORTATION OF NON-INTOXICATING BEVERAGE.

It is unlawful for any person knowingly to transport in any moving vehicle upon a public street or alley, or any public way within this city any non-intoxicating beverage unless it is:

- A. In the original container which shall not have been opened and from which the original can or seal shall not have been removed; or

- B. If it is in an opened container, the opened container is in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or to any other person in the vehicle while it is in motion. (Ord. No. 137, 8/2/77, as amended)

§ 3-210 PROHIBITED LOCATION.

It is unlawful for any place licensed to sell non-intoxicating beverages for on-premise consumption to be located within three hundred (300) feet from any public school or church property primarily and regularly used for worship services and religious activities. If any public school or church shall be established within three hundred (300) feet of any place which sells non-intoxicating beverages for on-premise consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days. The distance indicated in this section shall be measured from the nearest property line of such public school or church to the nearest public entrance door of the premises of any place licensed to sell such non-intoxicating beverages for on-premise consumption along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such public school or church shall be considered as if it were located on the same side of the street with the school or church. The above restrictions shall not affect premises already licensed as of the initial effective date of this section to sell non-intoxicating beverages for on-premise consumption or premises which may presently or in the future be licensed to sell non-intoxicating beverages for on-premise consumption even though a school or church is subsequently established within three hundred (300) feet of such licensed premises. (Ord. No. 137, 8/2/77, as amended)

§ 3-211 PENALTY.

Any and each violation of any of the provisions of this chapter is an offense against the city, and, upon conviction of such an offense, the violator shall be punished as provided in § 1-108 of this code. (Ord. No. 137, 8/2/77, as amended)